

SENATE BILL 280

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO STATE INVESTMENTS; ALLOWING DIRECT INVESTMENT OF
THE SEVERANCE TAX PERMANENT FUND IN NEW MEXICO FILM PROJECTS;
PROVIDING AND QUALIFYING LIMITATIONS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-27-5.26 NMSA 1978 (being Laws 2000
(2nd S.S.), Chapter 6, Section 2, as amended) is amended to
read:

"7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW
MEXICO. --

A. No more than one-half of one percent of the
market value of the severance tax permanent fund may be
invested in New Mexico film private equity funds or a New
Mexico film project under this section.

B. If an investment is made under this section,

1 not more than seven million five hundred thousand dollars
2 (\$7,500,000) of the amount authorized for investment pursuant
3 to Subsection A of this section shall be invested in any one
4 New Mexico film private equity fund or any one New Mexico film
5 project.

6 C. The state investment officer shall make
7 investments pursuant to this section only upon approval of the
8 state investment council after a review by the private equity
9 investment advisory committee and the New Mexico film division
10 of the economic development department. The state investment
11 officer may make ~~[an investment]~~ debt or equity investments
12 pursuant to this section only in ~~[a]~~ New Mexico film projects
13 or New Mexico film private equity [fund] funds that ~~[invests]~~
14 invest only in film projects that:

15 (1) are filmed wholly or substantially in New
16 Mexico;

17 ~~[(2) have obtained no less than one-third of~~
18 ~~the estimated total production costs from other sources;~~

19 ~~(3)]~~ (2) have shown to the satisfaction of
20 the New Mexico film division that a distribution contract is
21 in place with a reputable distribution company;

22 ~~[(4)]~~ (3) have agreed that, while filming in
23 New Mexico, a majority of the production crew will be New
24 Mexico residents; ~~[and~~

25 ~~(5)]~~ (4) have posted a completion bond that

1 has been approved by the New Mexico film division; provided
2 that a completion bond shall not be required if the fund or
3 project is guaranteed pursuant to Paragraph (5) of this
4 subsection; and

5 (5) have obtained a full, unconditional and
6 irrevocable guarantee of repayment of the invested amount in
7 favor of the severance tax permanent fund:

8 (a) from an entity that has a credit
9 rating of not less than Baa or BBB by a national rating
10 agency;

11 (b) from a substantial subsidiary of an
12 entity that has a credit rating of not less than Baa or BBB by
13 a national rating agency;

14 (c) by providing a full, unconditional
15 and irrevocable letter of credit from a United States
16 incorporated bank with a credit rating of not less than A by a
17 national rating agency; or

18 (d) from a substantial and solvent
19 entity as determined by the state investment council in
20 accordance with its standards and practices; or

21 (6) if not guaranteed pursuant to Paragraph
22 (5) of this subsection, have obtained no less than one-third
23 of the estimated total production costs from other sources as
24 approved by the state investment officer.

25 D. As used in this section:

1 (1) "committed capital" means the sum of the
2 fixed amounts of money that accredited investors have
3 obligated for investment in a New Mexico film private equity
4 fund, which fixed amounts may be invested in that fund in one
5 or more payments over time;

6 (2) "film project" means a single media or
7 multimedia program, including advertising messages, fixed on
8 film, videotape, computer disc, laser disc or other similar
9 delivery medium from which the program can be viewed or
10 reproduced and that is intended to be exhibited in theaters,
11 licensed for exhibition by individual television stations,
12 groups of stations, networks, cable television stations or
13 other means or licensed for the home viewing market; and

14 (3) "New Mexico film private equity fund"
15 means any limited partnership, limited liability company or
16 corporation organized and operating in the United States that:

17 (a) has as its primary business
18 activity the investment of funds in return for equity in film
19 projects produced wholly or partly in New Mexico;

20 (b) holds out the prospects for capital
21 appreciation from such investments; and

22 (c) accepts investments only from
23 accredited investors as that term is defined in Section 2 of
24 the federal Securities Act of 1933, as amended, and rules
25 promulgated pursuant to that section. "

1 Section 2. EMERGENCY.--It is necessary for the public
2 peace, health and safety that this act take effect
3 immediately.

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